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WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005-1503

EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TOSHIYASU SUGIO

Appeal 2017-000505
Application 13/213,136¹
Technology Center 2400

Before DEBRA K. STEPHENS, KEVIN C. TROCK, and
JESSICA C. KAISER, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from a Final Rejection of claims 1, 6, 7, 9, 13–15, and 17. Claims 2–5, 8, 10–12, 16, and 18 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

THE CLAIMED SUBJECT MATTER

According to Appellant, the claims are directed to an imaging apparatus which determines a zoom angle based on the user's sight line and

¹ According to Appellant, the real party in interest is Panasonic Intellectual Property Management Co., Ltd. (App. Br. 2).

an imaged subject (Spec., Abstract). Claim 1, reproduced below, is representative of the claimed subject matter:

1. An imaging apparatus to be worn on a head of a user, the imaging apparatus comprising:
 - a sight line detection circuit that detects a sight line direction of the user;
 - a motion detection circuit that detects motion information indicating motion of a subject;
 - a zoom angle determination circuit that determines a zoom angle of view to be smaller as a correlation value between the motion of the subject obtained from the motion information and motion of the sight line direction increases; and
 - an imaging circuit that captures an image of the subject according to the zoom angle of view.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Shimoni	US 2004/0146183 A1	July 29, 2004
Pesaran	US 2006/0217816 A1	Sept. 28, 2006
Arakawa	US 2008/0006651 A1	Jan. 10, 2008
Junichi	JP H04-213416	Apr. 8, 1992

REJECTIONS

Claims 1, 6, 7, and 13–15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Junichi and Shimoni (Final Act. 3–6).

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Junichi, Shimoni, and Pesaran (*id.* at 7).

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Junichi, Shimoni, and Arakawa (*id.* at 7–8).

ISSUE

35 U.S.C. § 103(a): Claims 1, 6, 7, and 13–15

Appellant contends the invention, as recited in claims 1, 6, 7, and 13–15, is not obvious over Junichi and Shimoni (App. Br. 3–6; Reply Br. 1–3). The dispositive issue presented by the arguments is:

Has the Examiner shown the combination of Junichi and Shimoni teaches or suggests “determin[ing] a zoom angle of view to be smaller as a correlation value between the motion of the subject . . . and motion of the sight line direction,” as recited in claim 1 and similarly recited in claim 14?

ANALYSIS

Appellant contends the Examiner erred in finding the combination of Junichi and Shimoni teach, suggest, or otherwise render obvious “determin[ing] a zoom angle of view to be smaller as a correlation value between the motion of the subject . . . and motion of the sight line direction,” as recited in claim 1 and similarly recited in claim 14. Specifically, Appellant argues Shimoni correlates “between [a] template and [a] gate,” rather than between the motion of a subject and the motion of a sight line (App. Br. 5; Reply Br. 2).

We are persuaded by Appellant’s arguments. The Examiner finds “Shimoni determines the correlation value based on two elements, which are *motions of the tracked object* relative to the *line of sight*” (Ans. 10 (citing Shimoni ¶¶ 57–58; *see* Final Act. 4 (citing Shimoni ¶ 56)). We find, however, Shimoni does not determine a correlation value between a moving object and a line of sight. Rather, we determine Shimoni’s “[c]orrelations are calculated between each template and its respective gate” (Shimoni ¶ 55;

see also id. ¶¶ 19, 25). Shimoni uses a correlation to *find* the “best positions for different motions relative to the line of sight” (Shimoni ¶¶ 56–58), but Shimoni does not teach the correlation *itself* is between the line of sight and the tracked object. Further, the Examiner has not adequately explained how Shimoni teaches a correlation between a line of sight and a tracked object.

Furthermore, the Examiner has not described in sufficient detail how the combination of Junichi and Shimoni renders obvious a correlation between subject motion and sight line motion. In particular, the Examiner does not explain why an ordinarily skilled artisan would have found it obvious to combine Junichi and Shimoni such that the combination correlates subject motion and sight line motion. Instead, the Examiner’s combination “incorporat[es]” Shimoni’s “correlation value” into Junichi (Ans. 10) which, as discussed *supra*, is not a correlation between subject motion and sight line motion.

Because we agree with at least one of the arguments advanced by Appellant, we need not reach the merits of Appellant’s other arguments (*see* App. Br. 3–5; *see also* Reply Br. 1–2). It follows, Appellant has shown the Examiner erred in finding the combined teachings of Junichi and Shimoni renders independent claims 1 and 14 and dependent claims 6, 7, 13, and 15, which depend directly or indirectly from claims 1 and 14, unpatentable.

Additionally, Appellant has persuaded us the Examiner has not shown Pesaran or Arakawa cure the deficiencies of the Junichi and Shimoni combination. Accordingly, dependent claims 9 and 17 stand with their respective independent claims. Thus, we do not sustain the Examiner’s § 103 rejection of claims 9 and 17.

DECISION

The Examiner's rejection of claims 1, 6, 7, and 13–15 under 35 U.S.C. § 103(a) as being unpatentable over Junichi and Shimoni is reversed.

The Examiner's rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Junichi, Shimoni, and Pesaran is reversed.

The Examiner's rejection of claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Junichi, Shimoni, and Arakawa is reversed.

REVERSED